
SECTION 17000 LOS ANGELES REVITALIZATION ZONE HIRING CREDIT

References (Repealed Sections) 17053.10(a); 17053.10(b)(5); 17053.17(a); 23623.5(a); 23625(a); 23625(b)(5)

The Los Angeles Revitalization Zone (LARZ) was established to aid economic development in areas that suffered damage during the civil unrest that occurred in the County of Los Angeles during April and May 1992. The LARZ became operative on May 1, 1992, and applied to businesses with taxable or income years beginning on or after January 1, 1992. The LARZ expired on December 1, 1998.

The California Revenue and Taxation Code (CR&TC) provided two hiring credit incentives for taxpayers conducting business activities within the LARZ. These incentives are the *General Hiring Credit* and the *Construction Hiring Credit*. In general, these two incentives provide for a credit based upon a declining percentage of qualified wages paid to or incurred for qualified employees.

No new LARZ hiring credits may be generated in taxable or income years beginning on or after January 1, 1998. However, LARZ hiring credit carryovers may still be claimed for 15 years from the year the credit was generated.

- The *General Hiring Credit* is available, for taxable or income years beginning on or after January 1, 1992, and before January 1, 1998, for hiring, on or after May 1, 1992, qualified disadvantaged individuals.
- The *Construction Hiring Credit* is available, for taxable or income years beginning on or after January 1, 1992, and until December 31, 1997, for employing, on or after May 1, 1992, qualified employees. The LARZ *Construction Hiring Credit* requires that the employee be hired to perform construction work within the LARZ. Construction work means any work performed by a qualified employee related directly to the erection, demolition, repair, or renovation of a structure located within the LARZ.

No new LARZ credits may be generated in taxable or income years beginning on or after January 1, 1998. However, LARZ credit carryovers may still be claimed for 15 years from the year the credit was generated.

Taxpayers that receive a LARZ *General Hiring Credit* or *Construction Hiring Credit* in their taxable or income year beginning on or after January 1, 1998, from a 1997 fiscal year pass-through entity *may not* claim these credits in their taxable or income year beginning on or after January 1, 1998. These credits can only be claimed for taxable or income years beginning *before* January 1, 1998.

EDAM 17100 GEOGRAPHIC BOUNDARIES

The information provided in the Franchise Tax Board's internal procedure manuals does not reflect changes in law, regulations, notices, decisions, or administrative procedures that may have been adopted since the manual was last updated

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EDAM 17200	TAXPAYER DEFINED – GENERAL & CONSTRUCTION HIRING CREDITS
EDAM 17300	GENERAL HIRING CREDIT
EDAM 17400	CONSTRUCTION HIRING CREDIT
EDAM 17500	MINIMUM WAGE CHART
EDAM 17600	BUSINESS INCOME ACTIVITY LIMITATION
EDAM 17700	GENERAL PROVISIONS – APPORTIONMENT OF BUSINESS INCOME
EDAM 17800	RECORD KEEPING

The information provided in the Franchise Tax Board's internal procedure manuals does not reflect changes in law, regulations, notices, decisions, or administrative procedures that may have been adopted since the manual was last updated

17100 Geographic Boundaries

For a listing of LARZ cities, see "*LARZ Locations and Designation Dates*" EDAM 1350. To verify an address, refer to EDAM 1300.

NOTE: Effective 1/1/96, the LARZ geographic area was re-determined (downsized) to eliminate previously qualified addresses. For taxpayers that operate in the portion of the LARZ that was excluded when the LARZ was downsized, LARZ benefits that were incurred when the LARZ designation was effective are allowed after downsizing (carryover amounts). In regards to the applicability of LARZ benefits incurred after the downsize of the LARZ, the hiring credit is no longer available, for income or taxable year beginning on or after 1/1/96 (determination date) for employees hired on or after 1/1/96. For employees hired before 1/1/96, the hiring credit continues for these employees assuming all other qualifying tests are met until expiration of the hiring credit provision.

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17200 Taxpayer Defined – General & Construction Hiring Credits

References (Repealed Sections) 17053.10(b)(6); 17053.17(b)(7); 23623.5(b)(7); 23625(b)(6)

EDAM 17210	Controlled Groups - General Hiring Credit Only
EDAM 17220	Acquired Businesses
EDAM 17230	Change in the Form of the Trade or Business
EDAM 17240	S Corporations

"Taxpayer" means a person or entity engaged in a trade or business within the LARZ.

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17210 Controlled Groups - General Hiring Credit Only

References (Repealed Sections) 17053.17(b)(9)(A); 23623.5(b)(9)(A); 23623.5(b)(9)(C)

All employees of trades or businesses that are under common control, or members of the same controlled group, are treated as employed by a single taxpayer.

A controlled group of corporations is defined in IRC § 1563(a) as modified by the California Revenue & Taxation Code, to replace "*at least 80%*" with "*more than 50%*". The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of IRC § 1563.

NOTE: Controlled groups of taxpayers may not transfer employees between members to trigger or increase the credit.

17220 Acquired Businesses

References (Repealed Sections) 17053.10(c); 17053.17(b)(10); 23623.5(b)(10); 23625(c)

For purposes of the hiring credit, if a major portion of a business is acquired from another employer, the employment relationship between the employee and the new employer is not treated as terminated if the employee continues employment in that business. Also, if a major portion of a separate unit of a business predecessor is acquired, the employment relationship between the employee and the new employer is not treated as terminated if the employee continues employment in that business.

NOTE: The new employer, “steps into the shoes” of the old employer for purposes of incurring future credits.

17230 Change in the Form of the Trade or Business

References (Repealed Sections) 17053.10(h)(2)(B); 17053.17(c)(2)(B); 23623.5(c)(2)(B); 23625(h)(2)(B)

The employment relationship between the taxpayer and an employee is not treated as terminated by reason of a mere change in the form of conducting the trade or business. If the employee continues employment in that trade or business and the taxpayer retains a substantial interest in that trade or business, the employee is not treated as terminated. In addition, transactions in which IRC § 381(a) applies will not trigger recapture if the employee continues employment by the acquiring corporation.

17240 S Corporations

References 23803(a)(1)(A); 23803(a)(1)(F); (Repealed Sections) 17053.10(e); 17053.17(e); 23623.5(e); (e)

An S corporation's hiring credit may reduce the LARZ tax at both the corporate and shareholder levels. However, the S corporation may only use one-third (1/3) of the credit to reduce the tax on the S corporation's LARZ income.

One hundred percent (100%) of the LARZ hiring credits are passed through to the S corporation shareholders. The full amount of the credits are reported on Schedule K (100S) and passed through to the shareholders on Schedules K-1 (100S).

The wage reduction for the S corporation is equivalent to the 1/3 credit amount. The wage reduction for the shareholders is 100% of the credit amount, equal to the amount of credit passing through to them.

Example: An S Corporation computes a \$3,000 hiring credit. The S corporation's credit is \$1,000 and the wage reduction is \$1,000. The \$3,000 credit is passed through to the S corporation's shareholders, and the wage reduction recognized by the shareholders is \$3,000.

17300 General Hiring Credit

EDAM 17310	Qualified Wages
EDAM 17311	Non-Qualified Wages
EDAM 17312	Downsizing of the LARZ
EDAM 17313	Estates and Trust
EDAM 17320	Qualified Employee - General Hiring Credit
EDAM 17321	Leased Employees
EDAM 17322	Relocation Into the LARZ
EDAM 17330	Credit Computation -General Hiring Credit
EDAM 17340	Reduction for Other Tax Credits – General Hiring Credit
EDAM 17350	Wage Expense Deduction
EDAM 17360	Credit Will Not Reduce Certain Taxes
EDAM 17370	Credit Usage & Carryover
EDAM 17380	Credit Recapture
EDAM 17381	Credit Recapture – Exceptions

17310 Qualified Wages

References (Repealed Sections) 17053.17(b)(1)-(2); 17053.17(b)(8); 17053.17(d); 23623.5(b)(1)-(2); 23623.5(b)(8)

Qualified wages are wages paid or incurred to qualified employees during the consecutive 60-month period beginning with the first day the employee commences employment with the taxpayer.

In general, *qualified wages* means that portion of hourly wages that does not exceed 150% of the minimum wage.

- Minimum wage means the wage established by the Industrial Welfare Commission. When the California minimum wage is higher than federal minimum wage, use the California minimum wage for purposes of this credit.
- To determine a salaried employee's hourly wage, divide the total salary by the average hours worked, normally 2,000 hours per year.

17311 Non-Qualified Wages

Qualified wages *do not* include any wages paid or incurred on or after the LARZ expiration date. The expiration date is the date the LARZ designation expires, is repealed, or becomes inoperative.

17312 Downsizing of the LARZ

For taxpayers eliminated from the LARZ geographic area due to the downsizing of the LARZ, the hiring credit can continue to be incurred for qualified employees hired before 1/1/96 (determination date for the downsizing of the LARZ), assuming all other qualifying tests are met, as if the taxpayer still operated within the LARZ geographic area.

17313 Estates and Trust

In the case of an estate or trust, the qualified wages are apportioned between the estate/trust and the beneficiaries on the basis of the income allocable to each. Consequently, any beneficiary, to whom wages are apportioned, is treated as the employer with respect to those wages.

17320 Qualified Employee - General Hiring Credit

References (Repealed Sections) 17053.17(b)(3); 23623.5(b)(3)

For purposes of the *General Hiring Credit*, a qualified employee is an individual who satisfies all of the following:

ANNUAL TESTS

- The employee is a resident of the LARZ;
- At least 90% of the employee's work for the taxpayer, during the taxable or income year, must be directly related to the conduct of the taxpayer's trade or business located within the LARZ;
- At least 50 percent of the employee's services for the taxpayer, during the taxable or income year, must be performed within the boundaries of the LARZ

NOTE: If a qualified employee moves out of the LARZ, that employee ceases to be a qualified employee.

TIME OF HIRE TESTS

- The employee is hired on or after May 1, 1992.

17321 Leased Employees

The "employer" is the qualified taxpayer and may qualify for the hiring credit for leased employees. The employer can be either the leasing company or the subscriber to the leasing company. Generally, the employer can be identified due to the legal obligation to pay the payroll taxes of the employee, and as to who has the right to control and direct the workers (employee's) services.

Internal Revenue Service (IRS) Publication 15-A, *Employer's Supplemental Tax Guide* provides guidelines for establishing an employment relationship and provides examples to consider in determining the employer-employee relationship

17322 Relocation Into the LARZ

If a business moves into the LARZ, the employer may claim the hiring credit for qualified wages paid to qualified employees. Such individuals must have been hired on or after May 1, 1992, maintained their residence in the LARZ on the date they were hired, continued to be LARZ residents when the employer commenced business in the LARZ, and performed services for the employer in the LARZ as required by statute. In regard to the 90% and 50% tests related to employee activity, the first day of the income or taxable year of relocation is used to determine if these percentages are met. Relocation to the LARZ does not affect the percentage ranges of the hiring credit. The percentage ranges relevant to qualified wages begin with the employee's date of hire, not the date the employer commenced business in the LARZ.

17330 Credit Computation -General Hiring Credit

References (Repealed Sections) 17053.17(a); 23623.5(a)

For each income or taxable year beginning on or after January 1, 1992, and before January 1, 1998, a hiring credit is allowed to a qualified taxpayer for hiring a qualified disadvantaged individual (employee) on or after May 1, 1992 for employment within the LARZ. The credit is equal to the sum of each of the following:

- 50% of the qualified wages during the first year of employment.
- 40% of the qualified wages during the second year of employment.
- 30% of the qualified wages during the third year of employment.
- 20% of the qualified wages during the fourth year of employment.
- 10% of the qualified wages during the fifth year of employment.

The credit percentage is based on the employee's date of employment and subsequent anniversary dates. The taxpayer's tax year does not control the applicable credit percentages. With the exception of the first and last year of the credit, within one tax year, two percentage ranges for the computation of the credit may apply.

Example: An employee was hired 7/1/1996, and the taxpayer is completing the tax return for the year ending 12/31/1997. For the period 1/1/1997 to 6/30/1997, the hiring credit is based on 50% of qualified wages. For the period 7/1/1997 to 12/31/1997, the hiring credit is based on 40% of qualified wages.

Once the employee commences employment, the credit percentage range begins and generally is not interrupted in the event of a subsequent layoff and rehire of the employee.

Example: An employee is hired 7/1/1996, is temporarily laid off 2/1/1997, and is rehired 4/1/1997. The 50% credit range runs from 7/1/1996 to 6/30/1997 regardless of the layoff period between 2/1/1997 and 3/31/1997.

17340 Reduction for Other Tax Credits – General Hiring Credit

References (Repealed Sections) 17053.17(e); 23623.5(e)

The LARZ *General Hiring Credit* is reduced by the credits allowable under the following California Revenue & Taxation Code Sections:

- 17053.7 & 23621 (Jobs Tax Credit);
- 17053.10 & 23625 – Repealed (LARZ Construction Hiring Credit);
- 17053.74 & 23622.7 (Enterprise Zone Hiring Credit);
- 23623 – Repealed (Program Areas Hiring Credit); and
- The federal credit allowed under IRC § 51 (Work Opportunity Tax Credit – WOTC).

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17350 Wage Expense Deduction

References (Repealed Sections) 17053.10(e); 17053.17(e); 23623.5(e); 23625(e)

The taxpayer must reduce any deduction for wages by the amount of the LARZ hiring credit allowed (including any current year credit to be carried forward).

17360 Credit Will Not Reduce Certain Taxes

The LARZ hiring credits cannot reduce the following:

- Minimum franchise tax (corporations, limited partnerships, limited liability partnerships, LLCs, and S corporations);
- Built-in gains tax (S corporations);
- Excess net passive income tax (S corporation); or
- Alternative minimum tax (corporations, exempt organizations, individuals and fiduciaries).

For taxable or income years beginning on or after January 1, 1993, the LARZ *Construction Hiring Credit* may reduce the regular tax below the tentative minimum tax.

For taxable or income years beginning on or after January 1, 1994, the LARZ General Hiring Credit may reduce the regular tax below the tentative minimum tax.

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17370 Credit Usage & Carryover

The aggregate amount of the LARZ hiring credits and the sales or use tax credit, including any credit carryover from prior years, that may reduce the "net tax"/"tax" for the income or taxable year, shall not exceed the amount of tax imposed on the taxpayer's business income attributable to the LARZ, determined as if that income represented all of the income of the taxpayer.

The portion of the LARZ credits that exceed the "net tax"/"tax" for the income or taxable year, are carried over and added to the credit, if any, in the following year. The credit may be carried over to succeeding years, until it is exhausted, or for 15 years from the year the credit was generated, whichever occurs first.

Example: A taxpayer has a \$1,500 LARZ *Sales or Use Tax Credit*, a \$2,400 LARZ *General Hiring Credit* and a \$1,200 LARZ *Construction Hiring Credit*. Tax imposed on LARZ income is \$4,700 and the taxpayer's overall "net tax"/"tax" is \$4,000. The taxpayer would be eligible to claim \$4,000 maximum in LARZ credits.

Sales or Use Tax Credit	\$ 1,500
General Hiring Credit	2,400
Construction Hiring Credit	<u>1,200</u>
Total LARZ credit	\$5,100
Tax on LARZ income	\$4,700

First limitation:

Lesser of total credit or tax on LARZ income	\$4,700
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Second limitation:

Lesser of tax on LARZ Income or "net tax"/"tax"	\$4,000
Maximum credit allowed: Lesser of <i>LARZ tax limitation</i> or " <i>net tax"/"tax" limitation</i>	<u>\$4,000</u>

Total LARZ credit	\$5,100
Maximum credit allowed	<u>\$4,000</u>
Carryover	\$1,100

The LARZ expired on December 1, 1998. If the taxpayer has any unused credits as of this date, the unused credits may continue to be carried forward until they are exhausted, or for 15 years from the year the credit was generated, whichever occurs first. The LARZ is deemed to remain in existence for purpose of computing the business income limitation.

17380 Credit Recapture

References (Repealed Sections) 17053.10(h)(1); 17053.17(c)(1); 17053.17(c)(3); 23623.5(c)(1); 23623.5(c)(3); 25625(h)(1)

Recapture of the hiring credit is required if the employee is terminated at any time during the longer of the following two periods:

- The first 270 days of employment (whether or not consecutive); or
- Ninety (90) days of employment plus 270 calendar days,

A “day of employment” includes any day the employee was paid to work, regardless of whether the employee actually worked (including paid holidays, sick days, and vacation days).

To recapture the credit, the taxpayer must add to the current year's tax the amount of credit claimed for the year of termination, as well as all prior year credit claimed for the terminated employee.

Any increase in tax, due to a credit recapture, is not offset by the current year hiring credit.

17381 Credit Recapture – Exceptions

References (Repealed Sections) 17053.10(h)(2)(A); 17053.17(c)(2)(A); 23623.5(c)(2)(A); 23625(h)(2)(A)

The credit recapture will not apply if the termination was:

- Voluntary on the part of the employee;
- Caused by the employee becoming disabled;
- Due to employee misconduct;
- Due to a substantial reduction in business;
- In order to enable other qualified employees to be hired, creating an increase in the number of qualified employees and the hours of employment; or
- For purposes of the Construction Hiring Credit, due to a contractual agreement.

17400 Construction Hiring Credit

EDAM 17410	Qualified Wages
EDAM 17411	Non-Qualified Wages
EDAM 17412	Downsizing of the LARZ
EDAM 17413	Estates and Trust
EDAM 17420	Qualified Employee-Construction Hiring Credit
EDAM 17421	Leased Employees
EDAM 17422	Relocation Into the LARZ
EDAM 17430	Credit Computation-Construction Hiring Credit
EDAM 17440	Reduction for Other Tax Credits – Construction Hiring Credit
EDAM 17450	Wage Expense Deduction
EDAM 17460	Credit Will Not Reduce Certain Taxes
EDAM 17470	Credit Usage & Carryover
EDAM 17480	Credit Recapture
EDAM 17481	Credit Recapture – Exceptions

17410 Qualified Wages

References (Repealed Sections) 17053.10(b)(1)-(2); 23625(b)(1)-(2)

Qualified wages, for purposes of the LARZ *Construction Hiring Credit*, means that portion of wages paid or incurred, by the taxpayer to its qualified employees for **construction work** in the LARZ during the income or taxable year.

Qualified wages means that portion of hourly wages that does not exceed 150% of the minimum wage.

- Minimum wage means the wage established by the Industrial Welfare Commission. When the California minimum wage is higher than federal minimum wage, use the California minimum wage for purposes of this credit.
- To determine a salaried employee's hourly wage, divide the total salary by the average hours worked, normally 2,000 hours per year.

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17411 Non-Qualified Wages

Qualified wages *do not* include any wages incurred after December 31, 1997.

17412 Downsizing of the LARZ

For taxpayers eliminated from the LARZ geographic area due to the downsizing of the LARZ, the hiring credit can continue to be incurred for qualified employees hired before 1/1/96 (determination date for the downsizing of the LARZ), assuming all other qualifying tests are met, as if the taxpayer still operated within the LARZ geographic area.

17413 Estates and Trust

In the case of an estate or trust, the qualified wages are apportioned between the estate/trust and the beneficiaries on the basis of the income allocable to each. Consequently, any beneficiary, to whom wages are apportioned, is treated as the employer with respect to those wages.

17420 Qualified Employee-Construction Hiring Credit

References (Repealed Sections) 17053.10(b)(3); 23625(b)(3)

For purposes of the *Construction Hiring Credit*, a qualified employee is an individual who satisfies all of the following:

ANNUAL TESTS

- The employee is a resident of the LARZ;
- The employee was hired to perform construction work within the LARZ.

TIME OF HIRE TESTS

- The employee is hired on or after May 1, 1992.

17421 Leased Employees

The "employer" is the qualified taxpayer and may qualify for the hiring credit for leased employees. The employer can be either the leasing company or the subscriber to the leasing company. Generally, the employer can be identified due to the legal obligation to pay the payroll taxes of the employee, and as to who has the right to control and direct the workers (employee's) services.

Internal Revenue Service (IRS) Publication 15-A, Employer's Supplemental Tax Guide provides guidelines for establishing an employment relationship and provides examples to consider in determining the employer-employee relationship

17422 Relocation Into the LARZ

If a business moves into the LARZ, the employer may claim the hiring credit for qualified wages paid to qualified employees. Such individuals must have been hired on or after May 1, 1992, maintained their residence in the LARZ on the date they were hired, continued to be LARZ residents when the employer commenced business in the LARZ, and performed services for the employer in the LARZ as required by statute. In regard to the 90% and 50% tests related to employee activity, the first day of the income or taxable year of relocation is used to determine if these percentages are met. Relocation to the LARZ does not affect the percentage ranges of the hiring credit. The percentage ranges relevant to qualified wages begin with the employee's date of hire, not the date the employer commenced business in the LARZ.

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17430 Credit Computation-Construction Hiring Credit

References (Repealed Sections) 17053.10(a); 23625(a)

For each income or taxable year beginning on or after January 1, 1992, and before January 1, 1998, a hiring credit is allowed to a qualified taxpayer for hiring a qualified employee on or after May 1, 1992 for employment within the LARZ. The credit is equal to the sum of each of the following:

- 100% of the qualified wages paid or incurred during the period from May 1, 1992, to the end of the 6th full month (June 30, 1993) *after* the designation of the LARZ, for employees that are hired during this period.
- 75% of the qualified wages paid or incurred during the period from the beginning of the 7th month (July 1, 1993) *after* designation to the end of the 12th full month (December 31, 1993) *after* designation, for employees that are hired during this period.
- 50% of the qualified wages paid or incurred during the period from the beginning of the 13th month (January 1, 1994) *after* designation to the end of the 60th full month (December 31, 1997) *after* designation, for employees that are hired during this period.

NOTE: The LARZ was designated December 31, 1992, operative May 1, 1992.

Example: On December 1, 1993, a business hired a qualified employee to perform construction work in the LARZ. The qualified employee worked in the LARZ from December 1, 1993 through June 30, 1994. The qualified employee's hourly wage was \$15.97. The employee was paid for 100 hours during 1993 and 1,000 hours during 1994. The LARZ construction hiring credit for this employee would be computed for 1993 as follows:

$$75\%[\$6.37 \text{ (150\% of minimum wage - not } \$15.97) \times 100] = \$478$$

Important: The business would not be able to claim the LARZ construction hiring credit on qualified wages paid to this employee after December 31, 1993 because the designated period within which this employee was hired expired on December 31, 1993. However, such wages may qualify for the LARZ general hiring credit.

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17440 Reduction for Other Tax Credits – Construction Hiring Credit

References (Repealed Sections) 17053.10(d); 23625(d)

The LARZ *Construction Hiring Credit* is reduced by the credits allowable under the following California Revenue & Taxation Code Sections:

- 17053.7 & 23621 (Jobs Tax Credit);
- 17053.8 & 23622 - Repealed (Enterprise Zone Hiring Credit);
- 17053.11 & 23623 - Repealed (Program Areas Hiring Credit);
- 17053.17 & 23623.5 - Repealed (LARZ General Hiring Credit); and
- The federal credit allowed under IRC § 51 (Work Opportunity Tax Credit - WOTC).

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17450 Wage Expense Deduction

References (Repealed Sections) 17053.10(e); 17053.17(e); 23623.5(e); 23625(e)

The taxpayer must reduce any deduction for wages by the amount of the LARZ hiring credit allowed (including any current year credit carried forward).

17460 Credit Will Not Reduce Certain Taxes

The LARZ hiring credits cannot reduce the following:

- Minimum franchise tax (corporations, limited partnerships, limited liability partnerships, LLCs, and S corporations);
- Built-in gains tax (S corporations);
- Excess net passive income tax (S corporation); or
- Alternative minimum tax (corporations, exempt organizations, individuals and fiduciaries).

For taxable or income years beginning on or after January 1, 1993, the LARZ *Construction Hiring Credit* may reduce the regular tax below the tentative minimum tax.

For taxable or income years beginning on or after January 1, 1994, the LARZ General Hiring Credit may reduce the regular tax below the tentative minimum tax.

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17470 Credit Usage & Carryover

The aggregate amount of the LARZ hiring credits and the sales or use tax credit, including any credit carryover from prior years, that may reduce the "net tax"/"tax" for the income or taxable year, shall not exceed the amount of tax imposed on the taxpayer's business income attributable to the LARZ, determined as if that income represented all of the income of the taxpayer.

The portion of the LARZ credits that exceed the "net tax"/"tax" for the income or taxable year, may be carried over and added to the credit, if any, in the following year. The credit may be carried over to succeeding years, until it is exhausted, or for 15 years from the year the credit was generated, whichever occurs first.

Example: A taxpayer has a \$1,500 LARZ *Sales or Use Tax Credit*, a \$2,400 LARZ *General Hiring Credit* and a \$1,200 LARZ *Construction Hiring Credit*. Tax imposed on LARZ income is \$4,700 and the taxpayer's overall "net tax"/"tax" is \$4,000. The taxpayer would be eligible to claim \$4,000 maximum in LARZ credits.

Sales or Use Tax Credit	\$ 1,500
General Hiring Credit	2,400
Construction Hiring Credit	<u>1,200</u>
Total LARZ credit	\$5,100
Tax on LARZ income	\$4,700

First limitation:

Lesser of total credit or tax on LARZ income	\$4,700
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Second limitation:

Lesser of tax on LARZ Income or "net tax"/"tax"	\$4,000
Maximum credit allowed: Lesser of <i>LARZ tax limitation</i> or " <i>net tax"/"tax" limitation</i>	<u>\$4,000</u>

Total LARZ credit	\$5,100
Maximum credit allowed	<u>\$4,000</u>
Carryover	\$1,100

The LARZ expired on December 1, 1998. If the taxpayer has any unused credits as of this date, the unused credits may continue to be carried forward until they are exhausted, or for 15 years from the year the credit was generated, whichever occurs first. The LARZ is deemed to remain in existence for purpose of computing the business income limitation.

The information provided in the Franchise Tax Board's internal procedure manuals does not reflect changes in law, regulations, notices, decisions, or administrative procedures that may have been adopted since the manual was last updated

17480 Credit Recapture

References (Repealed Sections) 17053.10(h)(1); 17053.17(c)(1); 17053.17(c)(3); 23623.5(c)(1); 23623.5(c)(3); 25625(h)(1)

Recapture of the hiring credit is required if the employee is terminated at any time during the longer of the following two periods:

- The first 270 days of employment (whether or not consecutive); or
- Ninety (90) days of employment plus 270 calendar days,

A “day of employment” includes any day the employee was paid to work, regardless of whether the employee actually worked (including paid holidays, sick days, and vacation days).

To recapture the credit, the taxpayer must add to the current year's tax the amount of credit claimed for the year of termination, as well as all prior year credit claimed for the terminated employee.

Any increase in tax, due to a credit recapture, is not offset by the current year hiring credit.

17481 Credit Recapture – Exceptions

References (Repealed Sections) 17053.10(h)(2)(A); 17053.17(c)(2)(A); 23623.5(c)(2)(A); 23625(h)(2)(A)

The credit recapture will not apply if the termination was:

- Voluntary on the part of the employee;
- Caused by the employee becoming disabled;
- Due to employee misconduct;
- Due to a substantial reduction in business;
- In order to enable other qualified employees to be hired, creating an increase in the number of qualified employees and the hours of employment; or
- For purposes of the Construction Hiring Credit, due to a contractual agreement.

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17500 Minimum Wage Chart

EFFECTIVE DATE	MINIMUM WAGE	MAXIMUM HOURLY WAGE – (150% of Minimum Wage)
July 1, 1988 to September 30, 1996	\$4.25	\$6.37
October 1, 1996 to February 28, 1997	\$4.75	\$7.12
March 1, 1997 to August 31, 1997	\$5.00	\$7.50
September 1, 1997 to February 28, 1998	\$5.15	\$7.72

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17600 Business Income Activity Limitation

References (Repealed Sections) 17053.10(g)(1)-(2); 17053.17(g)(1)-(2); 23623.5(g)(1)-(2); 23625(g)(1)-(2)

The amount of hiring credit or sales or use tax credit (see EDAM 18000) claimed, including any credit carryover from prior years, may not exceed the amount of tax on the LARZ business income in any year. Depending on the tax year involved, the LARZ business income is that portion of the taxpayer's *California source* business income or the worldwide income that is apportioned to the LARZ. Non-business income or loss is not included in the calculation of business income from the LARZ.

Example: Corp. A operates entirely within the LARZ. In order to determine the amount of hiring credit allowable, the business income, and the tax on that business income, must be determined. Corp. A has the following items of income and expense:

Income from business operations	\$30,000
Interest from investment which is unrelated to Corp. A's business operations	\$2,000
Business expenses	<u>(17,000)</u>
Net Taxable Income	\$15,000

Corp. A's income attributed to business operations is:

Income from business operations	\$30,000
Business expenses	<u>(17,000)</u>
Net Business Income	\$13,000

To determine the LARZ hiring credit allowable, the net business income is multiplied by the applicable tax rate.

Net Business Income	\$13,000
x 8.84%	<u>x 0.0884</u>
Tax associated with business income	\$1,149

In this example, the taxpayer can offset the tax of \$1,149 with the hiring credit available (up to \$1,149).

NOTE: "net tax"/"tax" and alternative minimum tax impose limitations on the allowable offset but were not considered a factor in this example.

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17700 General Provisions – Apportionment of Business Income

References (Repealed Sections) 17053.10(g); 17053.17(g); 23623.5(g); 23625(g)

EDAM 17710	Property Factor – Income Apportionment
EDAM 17720	Payroll Factor – Income Apportionment
EDAM 17730	Apportionment – Combined Groups
EDAM 17740	Apportioning for Personal Income Tax Taxpayers

If a business is located within and outside of the LARZ, the taxpayer must determine the portion of the total business income that is attributable to the LARZ.

- Business income is defined under the provisions of the Uniform Division of Income for Tax Purposes Act (UDITPA).
- Components of the factors are defined under the provisions of UDITPA.

For income or taxable years beginning on or after January 1, 1992, and before January 1, 1994, business income is apportioned to the LARZ by multiplying the *worldwide* business income by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two (2).

For income or taxable years beginning on or after January 1, 1994, business income is apportioned to the LARZ by multiplying the taxpayer's *California* source business income by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two (2).

17710 Property Factor – Income Apportionment

The property factor is a fraction. The numerator of the property factor is the average value of the real and tangible personal property owned or rented and used or available for use by the taxpayer *within the LARZ* during the income or taxable year.

- For income or taxable years beginning on or after January 1, 1992, and before January 1, 1994, the denominator is the average value of all real and tangible personal property owned or rented and used or available for use during the income or taxable year *worldwide*.
- For income or taxable years beginning on or after January 1, 1994, the denominator is the average value of all real and tangible personal property owned or rented and used or available for use by the taxpayer during the income or taxable year *within California*.

Rented property is valued at 8 times the net annual rental rate. The net annual rental rate is the total rent paid for the property, less any subrental rates paid by subtenants.

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17720 Payroll Factor – Income Apportionment

The payroll factor is a fraction. The numerator of the payroll factor is the total compensation paid to employees working for the taxpayer *within the LARZ* during the income or taxable year.

- For income or taxable years beginning on or after January 1, 1992, and before January 1, 1994, the denominator is the total compensation paid to employees working *worldwide* during the income or taxable year.
- For income or taxable years beginning on or after January 1, 1994, the denominator is the total compensation paid to employees working for the taxpayer *in California* during the income or taxable year.

Example: For the income year ending 12/31/96, Corp A operates within and outside the LARZ. California business income of \$13,000 needs to be apportioned to the LARZ. The following amounts apply to Corp. A's property and payroll:

LARZ Property	\$40,000	
CA Property	\$100,000	
LARZ Payroll	\$5,000	
CA Payroll	\$10,000	
LARZ Property/CA Property	=.40	
LARZ Payroll/CA Payroll	= <u>.50</u>	
	.90/2 = .45	LARZ Apportionment Factor
Business income	\$13,000	
Apportionment Factor	<u>x 0.45</u>	
LARZ Business Income	\$5,850	
Applicable Tax Rate	<u>x .0884</u>	
Tax attributable to LARZ business income	\$517	

NOTE: Had the above example been for an income or taxable year beginning on or after January 1, 1992, and before January 1, 1994, the denominator of the property and payroll factors would have been from worldwide sources rather than CA sources. See EDAM 23440.

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17730 Apportionment – Combined Groups

For income or taxable years beginning on or after January 1, 1992, and before January 1, 1994: For members of a combined group, the credit limitation will be based on combined groups worldwide business income (before CA apportionment). The numerator of the apportionment formula will be based on each LARZ taxpayer's separate LARZ payroll and property amounts, and the denominator will be based on the combined groups worldwide payroll and property amounts.

For an example of apportionment under this method refer to EDAM 23440.

For income or taxable years beginning on or after 1/1/1994: For members of a combined group, the limitation will be based on the intrastate apportioned business income for each taxpayer doing business within the LARZ. The numerator of the apportionment formula will be based on each LARZ taxpayer's separate LARZ property and payroll amounts and the denominator will be based on each LARZ taxpayer's separate California property and payroll amounts.

Example: For the income year ending 12/31/997, parent corporation A has two subsidiaries, B and C. Corporations A and B operate within the LARZ. The combined group operates within and outside California and apportions its income to California using Schedule R. The combined group's business income apportioned to California was \$1,000,000. Corporation A and B's share of California business income is \$228,000 and \$250,000 respectively. Corporation A and B's separate LARZ and separate California property and payroll factor amounts are shown below.

Business income apportioned to the LARZ was determined as follows:

	A	B
<u>Property Factor</u>		
LARZ Property	\$1,000,000	\$ 800,000
California Property	\$1,000,000	\$1,200,000
Apportionment %	100%	66.66%
<u>Payroll Factor</u>		
LARZ Payroll	\$800,000	\$ 800,000
California Payroll	\$800,000	\$1,000,000
Apportionment %	100%	80%
Average Apport. % (Property + Payroll Factors)/2	100%	73.33%

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Apportioned		
Business Income	\$228,000	\$250,000
LARZ Income	\$228,000	\$183,333

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17740 Apportioning for Personal Income Tax Taxpayers

The following examples show the application of the apportioning rules to personal income tax taxpayers.

Example: Ray Smith is vice president of an S corporation that has two locations, one within the LARZ and one outside the LARZ. Eighty percent (80%) of the S corporation's business is attributable to the LARZ. (**NOTE:** This percentage was determined by the S corporation, using Worksheet V from the FTB 3806 Business Booklet, at the time the S corporation return was prepared). Ray divides his time equally (50% & 50%) between the two offices of the S corporation.

Mary Smith (Ray's spouse) works for the S corporation at its office located within the LARZ.

Ray and Mary Smith have the following 1997 items of California income and expense:

Ray's salary from the S corp.	\$100,000
Mary's salary from the S corp.	75,000
Interest on savings account	1,000
Dividends	3,000
Schedule K-1(100S) from the S corp.	
Ordinary income	40,000
LARZ business expense deduction	(5,000)*
Ray's unreimbursed employee expenses from Schedule A	(2,000)

*The LARZ business expense deduction is a separately stated item on Schedule K-1 (100S).

The Smith's LARZ income is computed as follows:

Ray's LARZ salary ($\$100,000 \times 50\%$)	\$50,000
Mary's LARZ salary ($\$75,000 \times 100\%$)	75,000
Pass-through ordinary income from the S-Corp. ($\$40,000 \times 80\%$)	32,000
LARZ business expense deduction from the S-Corp.	(5,000)
Ray's unreimbursed employee business expenses ($2,000 \times 50\%$)	(1,000)
Total LARZ income	\$151,000

Ray and Mary must compute the tax on the total LARZ income of \$151,000 (as if it represents all of their income). Using the tax rate schedule for the filing status *married filing joint*, the tax on \$151,000

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is \$10,659. The \$10,659 is the first limitation on LARZ credits for the tax year. The second limitation on the credits is the *net tax* on all income.

NOTE: The standard deduction and personal or dependency exemptions are not included in the computation of LARZ income since they are not related to trade or business activities.

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17800 Record Keeping

For each qualified employee, documentation should be kept showing the following:

- Employee name
- Date employee was hired
- Number of hours the employee worked for each month of employment
- Wage rate paid for each month of employment
- Schedule calculating the hiring credit
- Overtime hours
- Location where services were performed
- Date employee was terminated, and reason why